IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 18317 of 2004

Between:

Ch.Rosaiah, s/o Durgaiah, Narasingapuram (P&V), Boinpally (M), Karimnagar District.

..... PETITIONER

AND

The Depot Manager, A.P.State Road Transport Corporation, Jagityal, Jagityal Depot, Karimnagar District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or directions more in the nature of writ of mandamus, declaring the office order No.02/95(7)/94-JGTL dated 26-7-1994 as illegal and arbitrary and set aside the same with all consequential benefits including arrears,

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondent. Smt P.Rajini, Standing counsel for APSRTC.

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a conductor in the respondent-corporation. He was imposed a punishment of stoppage of one increment with cumulative effect in pursuance of a disciplinary action taken against him on the basis of a charge sheet dated 16-2-1994. The petitioner contends that the punishment of stoppage of one increment with cumulative effect is a major punishment, therefore, it has to be imposed only after conducting an enquiry giving opportunity to him. The petitioner further contends that the respondent issued a charge memo on 16-2-1994 and he submitted his explanation on 29-2-1994. The respondent, without conducting any enquiry, passed the impugned order on 26-7-1994, therefore, the order is not sustainable under law.

The Supreme Court in *Kulwant Singh Gill v. State of Punjab (S.C)* held that punishment of withholding of increment with cumulative effect cannot be imposed without holding a regular departmental enquiry.

In the light of the Judgment of the Supreme Court, I find that the impugned order of the respondent dated 26-7-1994 cannot be sustained. But there are laches on the part of the petitioner who slept over the matter for a period of 10 years without questioning the impugned order.

In the light of the above circumstances, it would be appropriate to modify the punishment instead of remitting the matter back to the respondent for conducting a fresh enquiry.

In the light of the above circumstances, the order of the respondent dated 26-7-1994 imposing the punishment of stoppage of one increment with cumulative effect is modified as the punishment of stoppage of one increment without cumulative effect.

The writ petition is accordingly disposed of. No costs.

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8-10-2004

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To

1.The Depot Manager, A.P.State Road Transport Corporation, Jagityal, Jagityal Depot, Karimnagar District.

2. Two CD copies.